IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4375 OF 2007

Trimbak Hatcheries Pvt. Petitioner

versus

M/s. Vishal Traders ..... Respondent.

Shri Vaibhav P. Patankar for the petitioner.
Shri G.R.Agarwal for Respondent no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 26TH SEPTEMBER, 2007

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. The present petitioner is the original plaintiff, who has instituted a suit against the respondent/defendant for recovery of an amount of Rs.5,76,422/-. In the pending suit the petitioner/plaintiff filed an application under Order 38 Rule 5 for attachment before judgment in regard to a property which is more fully described in the said application. The property comprise of a paultry shed standing in survey No.174/5. The respondent/defendant has denied the transaction and the plaintiff's claim. I am informed that the Special Civil Suit wherein an application for attachment before judgment was filed

pertains to the year 1999. I am also informed that the suit has reached the stage of trial. The learned counsel for the petitioner has submitted that the respondent should not be permitted to sell the property or create a third party interest therein, till the suit is disposed of. Whereas according to the learned counsel for the respondent as the suit has reached the stage of trial it could be directed to be expeditiously disposed of by the court below.

3. Having regard to the totality of the facts and circumstances, I deem it appropriate to direct the trial court to decide the suit as expeditiously as possible and preferably within a period of three months from today. Till the disposal of the suit, the respondent/defendant shall not alienate the property of which attachment before judgment is sought and/or create any third party interest therein. Writ petition is thus disposed of. Rule made absolute in above terms.

4. All questions are left open to be agitated before the trial court and the trial court shall proceed to decide the suit on merit uninfluenced by the observations made in this order.

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